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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/512,076

11/05/2004

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EXAMINER

RANGREJ, SHEETAL

ART UNIT

PAPER NUMBER

3686

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/512,076	Applicant(s) TAKAHASHI ET AL.	
	Examiner SHEETAL R. RANGREJ	Art Unit 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/05/2004; 02/12/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution History Summary

1. Claims 1-24 are pending.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "142", "143", "144", and "145" have been used to designate "body information camera means" (p. 14, ln. 11-16); reference characters "151" and "152" have both been used to designate "microphone" (figure 1); reference characters "21", "22", "25", "26", "51", "53", and "54" have been used to designate "servers" (figure 1); reference characters "731", "732", and "733" have been used to designate "monitors" (p. 22, ln. 14-16); reference characters "A", "B", "C", "D", "E", and "F" have been used to designate "small screens" (p. 31). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “76” (figure 1), “63” (figure 3), “8” (figure 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because specification states “62” to be the operating section, while drawing points “62” towards a microphone. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112, Second Paragraph

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites limitations in “means plus function” language. The scope of a “means” limitation is defined as the corresponding structure or material set forth in the written description and equivalents thereof. See MPEP § 2181 through § 2186. If there is no disclosure of structure, material or acts for performing the recited function in the specification, the claim limitation lacks specificity, and fails to satisfy the requirements of 35 U.S.C. 112, second paragraph.

Recent court cases have held that simply reciting “software” without providing some detail about the means to accomplish the function is not enough. *See Aristocrat Techs. Austl. Pty v. Int'l Game Tech.*, ___ F.3d ___, 2008 U.S. App. LEXIS 6472, at *10 [[86 USPQ2d 1235](#)]

(Fed. Cir. Mar. 28, 2008) (“For a patentee to claim a means for performing a particular function and then to disclose only a general purpose computer as the structure designed to perform that function amounts to pure functional claiming. Because general purpose computers can be programmed to perform very different tasks in very different ways, simply disclosing a computer as the structure designated to perform a particular function does not limit the scope of the claim to ‘the corresponding structure, material, or acts’ that perform the function, as required by section 112 paragraph 6.”). The Court in *Aristocrat* did not require a listing of source code or a highly detailed description of the algorithm to be used to achieve the claimed functions in order to satisfy 35 U.S.C. §112 paragraph 6. It did require, however, the disclosure of at least the algorithm that transformed the general purpose microprocessor to a “special purpose computer programmed to perform the disclosed algorithm.” *WMS Gaming*, 184 F.3d at 1349. Thus the patent must disclose, at least to the satisfaction of one of ordinary skill in the art, enough of an algorithm or description of structure corresponding to the claimed function to provide the necessary structure under 35 U.S.C. §112 paragraph 6.

In the instant case, the “means plus *function*” language recited in claims 1-24, in limitations lacks sufficient disclosed structure under 112, sixth paragraph, and is therefore indefinite under 112, second paragraph.

8. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex*

parte Wu, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "range", and the claim also recites "range of 120° to 330°" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-8 and 10-24 are rejected under 35 U.S.C. 102(b) as being anticipated by David et al. (U.S. Patent no. 5,441,047).

11. As per claim 1, David teaches a medical cockpit system in which a clinic and a medical cockpit are connected to each other through a network,
-said clinic comprises measurement information obtaining means for obtaining measurement information such as electrocardiogram information of a patient (**David: col. 8, 23-38**),

-clinic camera means for shooting a state in said clinic including at least a medical procedure table (**David: figure 4-6**),

-clinic voice information obtaining means for obtaining voice in said clinic (**David: col. 8, 58-67**),

-physical information camera means for shooting a body including an affected part of said patient (**David: figure 4-6; col. 8, 58-67**), and

-medical procedure means for carrying out medical procedure for said patient by remote control (**David: col. 9, 12-24**), and

-said medical cockpit comprises monitor means for outputting video from said measurement information obtaining means (**David: figure 4-6**), said clinic camera means and said physical information camera means (**David: figure 4-6**), voice reproducing means for reproducing voice information from said clinic voice information obtaining means (**David: col. 8, 58-67**), and an operating section for remote controlling said medical procedure means (**David: col. 9, 12-24**),

-wherein said monitor means comprises first monitor means disposed at a predetermined distance from an operator who operates said operating section (**David: figure 4-6**), and

-second monitor means disposed around hands of said operator, said first monitor means outputs a peripheral vision video in said clinic shot by said clinic video means (**David: figure 4-6**) and

-outputs a plurality of local videos in said clinic as catalog screens such that said local videos are partially overlapped on said peripheral vision video (**David: figure 4-6**), and

-said second monitor means outputs measurement information obtained by said measurement information obtaining means or video from said physical information camera means **(David: figure 4-6)**.

12. As per claim 2, the system of claim 1 is as described. David further teaches further comprising database means in which previously obtained physical data of said patient or data peculiar to said patient is accumulated, wherein data accumulated in said database means is sent together with said information in said clinic **(David: col. 13, 18-30; col. 13, 63-67)**.

13. As per claim 3, the system of claim 1 is as described. David further teaches further comprising sending means which sends said information sent from said clinic not only to said medical cockpit but also to another cockpit **(David: figure 4-6)**. Changing the amount of places the data is sent to do not change the invention as a whole.

14. As per claim 4, the system of claim 1 is as described. David further teaches wherein said physical information camera means comprises a plurality of camera apparatuses which shoot said affected part from a plurality of directions **(David: figure 4-6)**.

15. As per claim 5, the system of claim 1 is as described. David further teaches wherein said first monitor means is disposed such that a viewing angle in said horizontal direction at a position of said operator who operates said operating section is in a range of 120° to 330° **(David: figure 4-6; col. 15, 52-53; col. 16, 37-56)**. A prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

16. As per claim 6, the system of claim 1 is as described. David further teaches wherein said second monitor means comprises a main monitor and an auxiliary monitor, said main monitor outputs said measurement information obtained by said measurement information obtaining means or said video from said physical information camera means, and said auxiliary monitor selectively switches and outputs catalog screens outputted on said first monitor means **(David: figures 4-6).**

17. As per claim 7, the system of claim 1 is as described. David further teaches wherein said second monitor means comprises a plurality of monitors, at least one of said monitors does not switch videos during operation of said medical procedure system **(David: figure 4-6).**

18. As per claim 8, the system of claim 6 or 7 is as described. David further teaches wherein said auxiliary monitor switches said catalog screens by detecting voice, motion and countenance of said operator **(David: figure 4-6; col. 16, 3-56).**

19. As per claim 10, the system of claim 1 is as described. David further teaches wherein said medical cockpit comprises cockpit camera means for shooting motion or countenance of said operator, and cockpit voice information obtaining means for obtaining voice of said operator, video shot by said cockpit camera means and voice obtained by said cockpit voice information obtaining means are sent to said clinic through said network **(David: col. 8, 48-57; col. 14, 44-54; col. 16, 57-52).**

20. As per claim 11, the system of claim 1 is as described. David further teaches wherein said clinic voice information obtaining means is a microphone held by a staff in said clinic **(David: figure 5-6).**

21. As per claim 12, the system of claim 1 is as described. David further teaches wherein said clinic voice information obtaining means is a microphone which captures sound in said vicinity of said affected part of said patient and breathing sound of said patient (**David: col. 8, 23-30, i.e. respiration**).

22. As per claim 13, the system of claim 1 is as described. David further teaches wherein said catalog screen in said first monitor means is disposed in a video position on which video contents outputted on said catalog screen is outputted, of videos outputted by said peripheral vision video (**David: figure 4-6**).

23. As per claim 14, the system of claim 1 is as described. David further teaches wherein said local video outputted on said catalog screen of said first monitor means is video information which is intermittently received (**David: col. 17, 35-55**).

24. As per claim 15, the system of claim 1 is as described. David further teaches wherein said voice reproducing means is a multi-speaker system, said voice is reproduced in a stereophonic manner such that said voice can be heard at a position of said operator in said medical cockpit in said same direction or at said same distance as that of said voice heard at an original position of said operator in said clinic (**David: col. 8, 58-67**).

25. As per claim 16, the system of claim 1 is as described. David further teaches wherein said voice reproducing means is a multi-speaker system, when voice is generated from a peripheral vision video outputted by said monitor means or from video outputted by said local video, said voice is reproduced in a stereophonic manner so that said voice can be heard in correspondence with said position of said video (**David: col. 8, 58-67; figures 4-6**).

26. As per claim 17, the system of claim 2 is as described. David further teaches wherein data stored in said database means is superposed on video of said physical information camera means in a transparent manner, or displayed adjacent to said video of said physical information camera means **(David: figure 4-6)**.

27. Claims 18-23 recite substantially similar limitations as those already addressed in claims 1-17, and, as such, are rejected for similar reasons as given above.

28. As per claim 24, the system of claim 19 is as described. David further teaches wherein said medical cockpit is connected to a plurality of clinics, said monitor means comprises first monitor means disposed at a predetermined distance from an operator who operates said operating section, and second monitor means disposed around hands of said operator, and information from said operating section is sent to said clinic of said video outputted by said second monitor means **(David: figure 4-6)**.

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over David et al. (U.S. Patent No. 5,441,047) in view of Beane et al. (U.S. Publication No. 2008/0021740).

31. As per claim 9, the system of claim 6 or 7 is as described. David does not explicitly teach wherein said auxiliary monitor switches said catalog screens using a foot switch.

Beane teaches wherein said auxiliary monitor switches said catalog screens using a foot switch (**Beane: para. 52**).

It would have been obvious to one of ordinary skill in the art to include in the medical cockpit system of David the ability to have a foot switch to switch between screens as taught by Beane since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results the combination were predictable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571) 270-1368. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. R. R./
Examiner, Art Unit 3686
March 28, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686